

**BEFORE THE  
POSTAL RATE COMMISSION  
WASHINGTON, DC 20268-0001**

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**Complaint on Sunday  
and Holiday Collections**

**Docket No. C2001-1**

**DOUGLAS F. CARLSON  
REPLY BRIEF**

**July 23, 2002**

I hereby submit my reply brief for Docket No. C2001-1.

Respectfully submitted,

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DOUGLAS F. CARLSON

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon the required participants of record in accordance with section 12 of the *Rules of Practice*.

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DOUGLAS F. CARLSON

July 23, 2002  
Santa Cruz, California

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## **I. INTRODUCTION**

On July 9, 2002, I filed my initial brief.<sup>1</sup> My brief described the shortcomings in Postal Service collection services on holidays and eves of holidays. Consistent with the legislative intent of 39 U.S.C. § 3662, I proposed specific steps that the Commission should recommend that the Postal Service take to ensure adequate and efficient services on holidays and eves of holidays. If the Postal Service implements these steps, the time and effort that participants and the Commission have expended during the hearing on this complaint will bring tangible service improvements to millions of postal customers nationwide.

On July 9, 2002, the Postal Service filed its initial brief.<sup>2</sup> The Postal Service's initial brief brought some welcome news. In a June 26, 2002, memo attached to the initial brief, the Postal Service announced that early collections on eves of holidays will not be permitted, a major change that should eliminate a practice that surely stranded thousands, if not millions, of customers' mail before major holidays. The memo also reaffirmed that holiday collection times are not to be posted on collection boxes unless mail will be collected and processed on every holiday. On the same day on which the Postal Service filed its brief, holiday collection times disappeared from collection boxes at a post office in California, a positive interim step until collection-box labels can be modified to show detailed holiday-collection information.

Unfortunately, the Postal Service's brief also contains some wishful thinking. Many of the arguments in the Postal Service's brief are based on legal argument by counsel concerning facts that the Postal Service wishes were true but that do not, in fact, appear in evidence. In reality, my testimony is the only evidence in this proceeding that was submitted by an identifiable person who was available for cross-examination. The Postal Service had ample opportunity to submit its own testimony, but it did not. As I will describe in more detail in this reply brief, the Postal Service has failed to rebut the evidence that I have submitted describing customers' need for accurate information concerning

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<sup>1</sup> Douglas F. Carlson Initial Brief ("Carlson Brief"), filed July 9, 2002.

<sup>2</sup> Brief of the United States Postal Service ("Postal Service Brief"), filed July 9, 2002.

collection services on holidays and eves of holidays, nor has the Postal Service shown that customers receive adequate service when the Postal Service does not collect and process outgoing mail on non-widely observed holidays or on widely observed holidays that fall on Mondays (except, possibly, Christmas Day and New Year's Day).

## II. HOLIDAY COLLECTIONS

### A. HOLIDAY MAIL DELIVERY

The Postal Service draws a comparison between holiday collections and suspended delivery and retail activities on holidays to suggest that suspended collections on holidays are consistent with the policies of the Postal Reorganization Act. The comparison of delivery, retail, and collection services is inapposite to resolution of issues in this proceeding.

1. **In deciding to file a complaint concerning holiday collection services, I was under no obligation to complain about every instance in which the Postal Service is failing to provide adequate postal services.**

After observing that most post offices are closed on federal holidays, the Postal Service states:

Mr. Carlson, however, does not complain about retail or delivery service on holidays, or allege that the lack of such activities constitutes inadequate or inefficient postal service. Instead, his complaint is limited to the treatment of outgoing mail, specifically, collection and mail processing. [Citations omitted.] Yet Mr. Carlson never explains why outgoing mail is more deserving of holiday service than incoming mail.

Postal Service Brief at 3. The Postal Service apparently is advancing a novel legal theory. Namely, a person who files a complaint under section 3662 must complain about *all* postal services that are not consistent with the policies of the Act. If a person fails to complain about all such services, those services omitted from the complaint can be deemed to be consistent with the policies of the Act. Then the Postal Service can compare the various services and reason by analogy. Section 3662 does not contain any support for the Postal Service's

application of the statute. My decision not to include retail and delivery services in my complaint says nothing about my opinion of the legal adequacy of retail and delivery services on holidays.

The Postal Service criticizes my analysis of the quantity of stranded mail on holidays by asserting that “there surely exists a greater amount of incoming mail — generated in the normal course of business on the days before the holiday — that is stranded in mail facilities by virtue of the suspension of delivery on holidays.” *Id.* at 4. The Postal Service then concludes, “If the ‘need’ for holiday service were appropriately measured by the amount of mail in the system on holidays, Mr. Carlson should be complaining about, if anything, the lack of holiday delivery of incoming mail, not the lack of holiday processing of outgoing mail” (footnote omitted). *Id.* at 5.

The Postal Service is attempting to shift to me the burden of proving an issue that is outside the scope of this proceeding. By deciding not to file a complaint concerning delivery on holidays, I have no obligation in this proceeding to prove anything about delivery of mail on holidays. The Postal Service is attempting to divert attention away from its own failure to submit any evidence concerning the adequacy of either holiday collection service or holiday mail delivery. The Postal Service’s comparison between holiday collection services and holiday mail delivery might be a starting point for a discussion if the Postal Service could point to any evidence whatsoever showing that holiday mail delivery is adequate.

**2. The Postal Service may not be providing adequate delivery service on non-widely observed holidays.**

For the purpose of evaluating the Postal Service’s argument, the Commission should not assume that the absence of holiday mail delivery necessarily provides customers with adequate service. I suspect that, if asked, many of the large percentage of businesses that are open on non-widely

observed holidays<sup>3</sup> would express a need for mail delivery on non-widely observed holidays — particularly those businesses that rely on the mail for customer orders or correspondence.

### **3. Outgoing mail service and incoming mail delivery are two different services.**

The Postal Service's comparison between outgoing mail service and incoming mail delivery does not advance resolution of issues in this proceeding because these two services are different. Outgoing mail service is an active endeavor. People who send mail are affirmatively reaching out to communicate with their recipients. In contrast, people typically react to the mail that they receive. These days, the typical piece of outgoing mail that most individual customers send is a bill payment, for which timeliness of delivery probably is rather important. When individual customers receive bill payments, statements, and similar correspondence, the timeliness of delivery probably is not as crucial as it is for their outgoing mail. In short, customers can tolerate a suspension of mail delivery more easily than they can tolerate days without outgoing mail service.

Another significant difference exists between collections and mail delivery. When a holiday is approaching, customers often can deposit their mail far enough in advance of the holiday to try to ensure delivery of the mail before the holiday. For example, if a Monday holiday is approaching, they can deposit mail targeted for three-day delivery by the previous Tuesday or Wednesday, thus hopefully causing it to be delivered before the Monday holiday. If they discover on Thursday, Friday, or Saturday that they have mail that needs to be delivered on or before the holiday, they still have time to use another option: Express Mail. Now consider customers who discover on a holiday that they have mail that needs to be dispatched on the holiday and delivered on the following day. Since the Postal Service may or may not be processing outgoing mail on the holiday,

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<sup>3</sup> By definition, most businesses are open on non-widely observed holidays. A recent study reported that only 10 percent of manufacturers, stores, hospitals, and communications companies schedule paid holidays on MLK's Birthday. DFC-T-1 Part 2, Appendix 8.

and since the Postal Service does not inform customers of the level of holiday collection service that is available, and since, in any event, customers apparently are supposed to believe that no outgoing processing is occurring on holidays, *see Id.* at 15, these customers will have no other postal option available. The Postal Service's suggestion that customers needing outgoing mail service on holidays can use Express Mail, *Id.* at 5–6, is peculiar because, if *any* fact has emerged clearly from this proceeding, we know that collection boxes do not show holiday collection times<sup>4</sup>, and the Postal Service does not inform customers whether, where, or when they can deposit any mail on holidays — First-Class, Express, or otherwise. If the Postal Service tried to act on its own advice contained in its initial brief, it would better appreciate why I am complaining about the dearth of information on holiday collection services.

The reality is that collections and delivery are different services that cause different types of consequences when holiday suspensions occur. If a customer fails or is unable to plan sufficiently far in advance to avoid holiday service disruptions, the customer will have other options if suspension of delivery is the problem, but the customer may not have other options if suspension of collections is the problem.

Finally, given that federal holidays signal that some government services will be suspended, it is logical for collections and processing to occur on holidays but not delivery or retail services. Surely the vast majority of the postal workforce is engaged in delivery and retail services, as well as administration, while a relatively small percentage of the workforce is necessary to provide collection and processing of outgoing holiday mail volumes. The Postal Service can use a truly skeletal crew to collect and process mail on holidays, particularly since most mail processing is now highly automated. Plant consolidation for holiday mail processing further reduces labor requirements. In contrast, delivery still requires

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<sup>4</sup> The statistics presented in DFC/USPS-19 on the number of collection boxes that show holiday collection times include Express Mail boxes. Before the June 26, 2002, memo was issued reminding field officials to remove holiday collection times from collection boxes that do not provide service on every holiday, only 4,016 collection boxes nationwide showed holiday collection times. The June 26, 2002, memo should cause holiday collection times from almost all these boxes to be removed.



letter carriers to drive and walk their routes. The benefits of holiday collections are high, and the labor requirements to provide this service are low. This cost-benefit calculus surely explains why the Postal Service historically has processed outgoing mail on holidays while suspending delivery and retail services.

In short, while provision of delivery and retail services on holidays may make for interesting lunchtime conversation in the Postal Service cafeteria, these services have little relevance to resolving issues in the current complaint case.

**B. CUSTOMERS CARE ABOUT WHETHER THEIR OUTGOING MAIL DEPOSITED ON OR BEFORE A HOLIDAY IS PROCESSED ON THE HOLIDAY.**

The Postal Service advances the remarkable assertion that a “large portion of customers who deposit mail in the system on or before holidays may be essentially indifferent whether that mail is worked on the holiday at all” (footnote omitted). Postal Service Brief at 5. The only customers whom the Postal Service is willing to assume need holiday mail service are those customers who “are willing to pay for it by upgrading to Express Mail[.]”<sup>5</sup> *Id.* at 5–6.

**1. The Postal Service provided no evidentiary support for its assertion that a large portion of customers who deposit mail on or before a holiday may be indifferent as to whether that mail is processed on the holiday.**

The Postal Service has introduced *no evidence* to show that customers do not need outgoing mail service on holidays. Nor has the Postal Service introduced any evidence to show that customers who deposit mail on or before holidays do not care whether the mail will be collected and processed on the holiday. The Postal Service suggested that I could have conducted “quantitative market research” to “ascertain objectively the motivations and expectations of, specifically, persons who deposit mail on holidays, and, more broadly, the public

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<sup>5</sup> By offering this suggestion, the Postal Service unwittingly confirms one of my central allegations in this complaint because customers do not know how to deposit Express Mail on holidays since post offices are closed and collection boxes do not show holiday collection times. See also section II.A.3, *supra*.

at large.”<sup>6</sup> *Id.* at 5, fn. 3. However, it also is true that the Postal Service, when faced with my evidentiary presentation, could have conducted similar research to rebut my testimony. Perhaps the Postal Service was afraid of the results of such research. For example, suppose a researcher spent a day at a post office on Columbus Day and asked every customer who visited the post office to deposit mail whether the customer needed or expected the mail to be collected and processed on the holiday. It is hard to imagine that a large proportion of those customers would be indifferent — particularly those who made a special trip to the post office. See DFC-T-1 at 13–14. Yet these people are some of the customers whom the Postal Service should be asking.

**2. Postal Service memos confirm customers’ concern about schedules for collecting and processing outgoing mail on holidays.**

The Postal Service’s own evidence — memos from the Pacific Area — indicate that some customers are far from indifferent about holiday collections and mail processing. Pacific Area operations policy memos for various holidays advised, for several years, that “it is critical that our business customers and high volume mailers are made aware of our holiday collection efforts.”<sup>7</sup> Other versions of Pacific Area holiday-operations memos require local managers to “[e]nsure that business customers and high volume mailers are made aware of our holiday collection plans.”<sup>8</sup> Under any reasonable interpretation of these memos, one must conclude that the Pacific Area assigns a high priority to informing business customers and high-volume mailers of holiday collection

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<sup>6</sup> The Postal Service suggests that conducting market research on “consumer preference” on holiday mail service might be difficult because this issue does not “loom large,” if at all, on the “public’s radar screen.” The Postal Service offers no evidence in support of its assertion that the public does not care about holiday mail service. See also the discussion in section II.F, *infra*.

<sup>7</sup> This or similar language appears in memos in USPS-LR-C2001-1/3 for the following holidays: MLK’s Birthday (December 30, 1997; January 11, 1999; December 28, 1999); Presidents Day (January 25, 1996; January 28, 1997; January 22, 1998; January 26, 1999); Memorial Day (May 18, 1993; May 20, 1994); Independence Day (June 8, 1993); Columbus Day (October 5, 1995); and Veterans Day (October 24, 1994).

<sup>8</sup> This or similar language appears in memos in USPS-LR-C2001-1/3 for the following holidays: Memorial Day (May 13, 1997; May 11, 1998); Independence Day (June 17, 1996; June 10, 1997); Labor Day (August 6, 1996; August 21, 1997; August 18, 1998; August 16, 1999); and Veterans Day (October 23, 1996; October 28, 1997; November 2, 1998; October 25, 1999).

plans. I cannot imagine why the Pacific Area would assign such a high priority to notifying business customers and high-volume mailers of holiday collection plans if these customers are “essentially indifferent” to whether their mail will be collected and processed on holidays. My testimony certainly was not limited to individual customers, as I routinely discussed the needs of business customers. Far from contradicting my testimony, the Postal Service, by arguing on brief that customers may be indifferent about holiday mail service, has contradicted *itself* instead.

If the Postal Service believes that individual, non-business customers do not need holiday collection service while business customers and high-volume mailers do, the Postal Service had an opportunity to submit evidence in support of this position. The Postal Service did not submit any such evidence. Even though business and high-volume mailers often draw more of the Postal Service’s attention than individual customers because high volumes bring in large amounts of revenue, it is important to maintain a distinction between volume and need. While some large mailers send out millions of pieces of mail per month, it is not clear that they have any more need for mail service than the typical postal customer who sends a dozen or so letters per month. The typical postal customer who uses the mail to pay bills and send occasional personal correspondence might be in as much of a jam if mail service were interrupted as the large mailers who send customers their bills each month. Need is need, and an interruption in mail service likely would affect every American, not solely large mailers. In this sense, it is unfortunate that the Pacific Area did not expand its concern for customers’ needs to include individual, non-business customers. Nonetheless, the Postal Service’s own evidence contradicts its assertion on brief that a large portion of customers who deposit mail on or before holidays may be indifferent as to whether that mail will be collected and processed on the holiday.

**C. ELIMINATION OF SUNDAY COLLECTIONS DID NOT SIGNAL TO CUSTOMERS THAT HOLIDAY COLLECTIONS WERE BEING ELIMINATED, TOO.**

In my testimony, I observed that the Postal Service's processing activities on holidays began to decline after 1988, when the Postal Service eliminated collection and processing of outgoing mail on Sundays. DFC-T-1 at 2. On this point, the Postal Service and I seem to agree. Postal Service Brief at 6. Any consensus quickly ends, however, when the Postal Service suggests that some connection exists "in the minds of the mailing public historically between the types of postal services that they could expect on Sundays, and the types of postal services they could generally expect on holidays." *Id.* at 7. This theory is purely speculative, as the Postal Service provided no evidence to support it. The announcement of the elimination of Sunday collections did not discuss holiday collections. Starting from this speculative premise, the Postal Service conveniently concludes that, after the Postal Service eliminated collection and processing of outgoing mail on Sundays, "mailer expectations that mail would be collected and/or processed on holidays may have diminished substantially." *Id.* The Postal Service goes on to conclude that holiday mail volume declined, so postal officials began to question the need for holiday operations as well. *Id.*

Nowhere in my testimony did I suggest that the elimination of Sunday collections and mail processing signalled anything to customers about holiday services. Moreover, the Postal Service has provided no evidence beyond the speculation contained in DFC/USPS-9 to support this theory. In fact, the Postal Service has provided no evidence to support a conclusion that the volume of mail available for collection on holidays in 2002 is any lower than the volume of mail that was available for collection on holidays in 1987, before the Postal Service eliminated collection and processing of outgoing mail on Sundays.<sup>9</sup> Yet the Postal Service advances this suggestion as well. Postal Service Brief at 9–10.

Within this discussion, the Postal Service also asserts that "no apparent basis in policy or principle [existed to explain] why Christmas and New Year's

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<sup>9</sup> Even if data to permit such a comparison existed, one would need to control for the fact that collection-times labels on collection boxes were more likely to show holiday collections in 1987 than in 2002. Customers are more likely to deposit mail on holidays if collection boxes show holiday collection times. DFC-T-1 at 18–19.

Day would have been treated differently from all other holidays in the benchmark period.” Postal Service Brief at 8. Therefore, the Postal Service concludes, “there is no apparent basis in policy or principle to object when other holidays also began to be treated more like Christmas and New Year’s in more recent years.” *Id.* One very apparent basis exists: volume. Few Americans would disagree that Christmas Day and New Year’s Day are among the most widely observed of all holidays. It is quite reasonable to believe that volume explains why, prior to 1988, most plants typically processed outgoing mail on most holidays except Christmas Day and New Year’s Day. See DFC-T-1 at 1–2.

**D. THE POSTAL SERVICE SCHEDULES HOLIDAY MAIL PROCESSING FOR THE CONVENIENCE OF THE POSTAL SERVICE, NOT TO SATISFY THE NEEDS OF CUSTOMERS.**

**1. The needs of customers do not drive holiday collections and mail processing.**

In my initial brief, I asserted that the “needs of customers are not the primary factor in Postal Service decision-making on whether a particular plant will process outgoing First-Class Mail on a particular holiday in a particular year.” Carlson Brief at 18–19. The Postal Service’s brief confirms that I hit the nail on the head:

Succinctly stated, the Postal Service generally collects and processes mail on holidays when and where postal officials believe that it maximizes operational efficiency to do so. When officials conclude that the expected workload can be handled more efficiently on the day after the holiday (i.e., at less cost, with less impact on employee morale, and without service disruption on that day), they tend not to schedule holiday operations.

Postal Service Brief at 9.

The Postal Service confirms that the needs of customers are not a factor in the decision on whether to process outgoing mail on holidays. The Postal Service’s failure to consider the needs of customers is at the root of the problem. Moreover, this failure probably explains the wild, unpredictable variations in

holiday processing operations from plant to plant, holiday to holiday, and year to year. DFC-T-1 at 7–9, 20–21, and Part 1, Appendix 2.

The Postal Service candidly admits that the absence of any promises to the public works to the Postal Service's benefit because the Postal Service can decide with no notice to the public whether to process mail on particular holidays. See Postal Service Brief at 22.

In the past, decisions on holiday processing apparently were related to the needs of customers. Memos dated May 16, 1996, from the Pacific Area indicate that the Pacific Area decided to conduct holiday collections and mail processing on Memorial Day “given the emphasis on service.” USPS-LR-C2001-1/3. The Pacific Area policy in 1995, as stated in a memo dated February 10, 1995, required that offices “carefully evaluate the service needs of their communities and provide the levels of service deemed necessary.” *Id.* When the Pacific Area was considering customers' needs, holiday mail processing was widespread. See USPS-LR-C2001-2. Nowadays, headquarters memos make clear that these decisions are based on considerations other than the needs of customers.

The Postal Service's failure to consider the needs of customers is problematic because customers need holiday mail service. The Pacific Area certainly recognized some customers' need, see section II.B.2, *supra*, but current Postal Service policy does not. Given that the Postal Service does not consider the needs of customers in planning collection and processing of outgoing mail on holidays, no one should be surprised that the Postal Service is failing to satisfy the section 3661(a) requirement to provide adequate and efficient postal services. Indeed, only with some good luck would the Postal Service have been able to hit the section 3661(a) target while ignoring the needs of customers.

## **2. Operational efficiency does not explain the wide variation in processing operations.**

Even giving the Postal Service's operational argument due consideration and respect, and even with appropriate recognition of the challenges in serving a

nation as large as the United States, it is hard to believe that considerations such as whether the workload can be more efficiently handled on the holiday or on the following day explain the wide variation in processing operations. The mail volume each year on, for example, MLK's Birthday surely does not vary each year by orders of magnitude. It is questionable, for example, that the relative efficiency of processing mail on MLK's Birthday varied so much from year to year that efficiency would explain why the Morgan P&DC in Manhattan processed mail on MLK's Birthday in 1998, did not process mail on this holiday in 1999, processed mail on this holiday in 2000, and did not process mail on this holiday in 2001. USPS-LR-C2001-1/2. Similarly, it is not clear why operations would differ so much from plant to plant and from holiday to holiday within one city that the Queens P&DC would find it more efficient to process mail consistently on MLK's Birthday while the Brooklyn P&DC would not. Even assuming that the needs of customers should not factor into decisions on holiday operations, the Postal Service has not provided a rational explanation for the variation.

In fact, holiday processing decisions appear to be most closely correlated with the administrative Area in which a plant resides. See DFC-T-1 at Part 1, Appendix 2.

**3. The Postal Service has not shown that the volume of mail available for collection and processing on holidays has declined in recent years.**

Possibly aware of the consequences of admitting that operational decisions on holidays do not consider the needs of customers, the Postal Service floats the suggestion that the volume of mail deposited on holidays has declined. Postal Service Brief at 9–10. However, the Postal Service offers no evidence in support of this position other than the speculation contained in DFC/USPS-9. In fact, the Postal Service has provided no evidence to support a conclusion that the volume of mail available for collection on holidays in 2002 is any lower than the volume of mail that was available for collection on holidays in

1987, before the Postal Service eliminated collection and processing of outgoing mail on Sundays.<sup>10</sup>

The Postal Service even suggests that “shifts in the ways in which certain holidays have been observed by the public” might have altered the amount of mail that people deposit on holidays. Postal Service Brief at 10, fn. 5. The Postal Service offers this suggestion to “caution against any simplistic assumption that the available workload of mail on holidays would have remained static if postal operations had just remained constant.” *Id.* The Postal Service is correct to suggest that changes in the ways in which people observe holidays may have affected holiday volumes. However, the clear trend in recent years has been toward *more* business activity on holidays, not less. The number of stores and businesses that open on holidays has been increasing steadily, and the number of holidays on which stores and businesses remain open has been increasing as well. Since business customers generate a substantial quantity of mail, these societal shifts in the observance of holidays likely have *increased* customers’ need for holiday mail service.

**4. If the volume of mail available for collection on holidays has fallen, the Postal Service has caused this decline by removing holiday collection times from collection boxes and by curtailing the availability of holiday mail processing.**

The Postal Service observes that postal officials are less likely to schedule holiday processing operations as holiday mail volumes decline. Postal Service Brief at 12. As holiday operations are curtailed, the Postal Service also observes that it is rational for increasing numbers of mailers not to bother to deposit outgoing mail on holidays. *Id.* The Postal Service and I agree that the deletion of holiday collection times from collection boxes likely has deterred customers from depositing outgoing mail on holidays. *Id.*; Carlson Brief at 16.

The Postal Service describes this situation as a “chicken-and-the-egg” problem. However, reading the Postal Service’s brief only confirms that no such

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<sup>10</sup> See fn. 9, *supra*.



“chicken-and-the-egg” problem exists. Rather, the factors that the Postal Service listed *are* the reasons for the hypothesized decline in mail volume on holidays. The causation is clear. The Postal Service’s analysis simply confirms my assertion that the mail volume that plants process on holidays probably underestimates the true need for holiday collection service because, for a variety of reasons, available mail volume is not ending up at the processing plant on holidays. Carlson Brief at 16–17.

**E. THE POSTAL SERVICE INCORRECTLY SUGGESTS THAT CUSTOMERS SHOULD NOT EXPECT HOLIDAY PROCESSING SERVICES.**

The Postal Service asserts that “most mailers should be inclined to believe that they cannot expect outgoing mail service on holidays.” Postal Service Brief at 15. The Postal Service bases this assertion on the information that customers receive through local media announcements and the absence of holiday collection times on collection-box labels. Therefore, the Postal Service is content to withhold detailed and accurate information from customers. *See Id.* at 16.

The Postal Service is naive to think that customers have not figured out that the Postal Service sometimes collects and processes outgoing mail on some holidays. Several pieces of information likely lead customers to this conclusion. First, most collection boxes are in public view. When the Postal Service collects mail from these boxes on holidays — especially non-widely observed holidays — hundreds or even thousands of drivers and pedestrians observe this activity. These observations will sow seeds in customers’ minds that some level of service is provided on holidays, despite the suggestion to the contrary on the collection-times labels. Second, some customers will have observed holiday postmarks on their mail. Third, undoubtedly some customers have telephoned a business on a holiday and requested some documents or information, and the documents or information have shown up in the mail the next day. These customers likely have realized that the Postal Service processed mail on the holiday. In fact, customers may have made a special mental note of this

occurrence because the unexpectedly early arrival of the mail underscored the fact that the mail was processed on the holiday. Fourth, some customers surely have been pleasantly surprised in the past when their mail has been collected and processed on holidays and delivered more promptly than they expected — for example, when recipients commented on or responded to the mail sooner than the sender expected. Fifth, some customers surely have been unpleasantly surprised — in the form of bounced checks or similar mishaps — when they mailed bill payments on a holiday and did not expect their mail to be collected and processed until the first postal business day after the holiday.

The Postal Service even seems to acknowledge, if only accidentally, that customers may be smart enough to look and think beyond the collection-times labels. While attempting to support a different argument, the Postal Service admits that, “[a]t some level, of course, mailers probably understand that mail is more likely to be dispatched, for example, on Columbus Day than on Christmas Day.” Postal Service Brief at 22. Customers probably arrive at this conclusion for one or more of the reasons I have explained here. In any event, it is clear that customers form their expectations using more than blank collection-times labels.

Customers know that the Postal Service does not always provide correct information. This entire complaint is a case in point. While customers have a right to expect and receive correct information, customers adapt as well as they can. Customers usually trust their personal experiences, and their personal experiences are likely to create some expectation of holiday mail service, even though collection boxes do not show holiday collection times. In a sense, the absence of holiday collection times creates a boy-who-cried-wolf problem: Even though collection boxes assert that no holiday collection will be provided, many customers know that a holiday collection sometimes is provided anyway. Therefore, it is implausible to believe that most customers do not expect outgoing mail service on any holidays simply because collection-times labels do not show holiday collection times. More likely, customers know that the proper expectation is somewhere between no service and full service. Therefore, by

definition, they are confused and do not know exactly what to expect. The confusion leads to the inadequate service that I described in my initial brief at 14–15.

**F. THE POSTAL SERVICE PROVIDES NO BASIS FOR SUGGESTING THAT THE PUBLIC DOES NOT CARE ABOUT HOLIDAY MAIL SERVICE.**

In an effort to support its practice of withholding information on holiday service levels from the public, the Postal Service resorts to the remarkable assertion that the public does not care about holiday collection services.

This recurring theme debuts when the Postal Service asserts that I have “chosen to pursue an issue that, if it appears on the public’s radar screen<sup>11</sup> at all, does not loom large.” Postal Service Brief at 5–6, fn. 3. Next, the Postal Service states its disagreement with my contention that “the lack of more detailed and accurate information on holiday service is a problem.” *Id.* at 16. Finally, the Postal Service again asserts that

the more fundamental problem is the public’s essential indifference to the presence or absence of outgoing operations on holidays. Trying to inform the public of something about which the vast majority of the public simply does not care is like trying to push on a rope.

Postal Service Brief at 20.

The Postal Service has not provided one shred of evidence to support these statements. The Postal Service certainly has done nothing to rebut my testimony describing the reasons why customers need accurate information about collection services. See DFC-T-1 at 35–37. The suggestion that the public does not care about the presence or absence of holiday collection operations is nothing more than pure, unsubstantiated speculation. The Commission must evaluate the issues in this case based on the evidence

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<sup>11</sup> The radar screen analogy is, perhaps, apt because customers’ concern about holiday collection activities probably arises on holidays and subsides thereafter until the holiday arrives again in the following year — in much the same way in which a radar beam sweeps around the circle on a radar screen.

presented, not speculation about facts that the Postal Service merely wishes were true.

Previously, I suggested that the Postal Service could have sent a researcher to a post office on a holiday such as Columbus Day and asked every customer who visited the post office to deposit mail whether the customer needed or expected the mail to be collected and processed on the holiday. It is hard to imagine that a large proportion of those customers would not care or would not want to know — particularly those who made a special trip to the post office. See, e.g., DFC-T-1 at 13–14. Perhaps the Postal Service was afraid to ask people for fear that the answers would burst the bubble upon which the Postal Service intended to construct its defense of this complaint.

Before stating that the public does not care about holiday collection plans, and before stating that I have made “no showing” that my views “represent anything other than [my] own personal opinions,” Postal Service Brief at 21, the Postal Service should have reviewed its own evidence. Pacific Area operations policy memos for various holidays advise, for several years, that “it is critical that our business customers and high volume mailers are made aware of our holiday collection efforts.”<sup>12</sup> Notifying customers was not merely important or desirable; it was *critical*. Other versions of Pacific Area holiday-operations memos require local managers to “[e]nsure that business customers and high volume mailers are made aware of our holiday collection plans.”<sup>13</sup> Obviously some customers care, even if, for purposes of defending this complaint, it is now more convenient for the Postal Service to pretend that customers do not care.

The Postal Service also infers a lack of public interest in holiday collections from the absence of interventions in this proceeding by individuals and organizations other than David B. Popkin. Postal Service Brief at 21. The first problem with this line of argument is that the *Federal Register* notice<sup>14</sup> that the Postal Service cites does not invite notices of interventions from other

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<sup>12</sup> See fn. 7, *supra*.

<sup>13</sup> See fn. 8, *supra*.

parties. This fact alone would seem to discourage members of the public, and perhaps organizations, from intervening.

Second, in the last three omnibus rate cases, Mr. Popkin and I have been the only individuals who have participated in rate cases beyond filing notices of intervention. Surely the public cares about rate increases, but for a variety of reasons, people do not participate. I suspect that many people find that the technical and legal knowledge required to be an effective participant is a significant deterrent, if not barrier, to participation. Time and money are other significant limitations on people's ability to participate. Moreover, it is quite possible that the public is happy with the representation that their interests enjoy from Mr. Popkin, the Office of the Consumer Advocate, and me. They make rational choices not to participate when others are representing their interests effectively. Indeed, my position on the issues in this complaint was apparent from the complaint itself, so it should be no surprise that other members of the public did not intervene to express the same point of view. In fact, if anything, it is noteworthy that no one else intervened to support the Postal Service's practice of withholding information from the public on collection services on holidays and eves of holidays.

Third, the Postal Service has presented no evidence consisting of Postal Rate Commission Web site activity logs to confirm that members of the public are not accessing documents for Docket No. C2001-1. The public does not need to intervene in order to indicate an interest in a Commission proceeding.

Organizations must conduct a cost-benefit analysis before hiring expensive legal counsel to participate in Commission proceedings. I would have been surprised if any organizations had intervened in this proceeding, even if the *Federal Register* notice had invited interventions, because the financial stakes are relatively low compared to omnibus rate cases. Moreover, the Postal Service takes care of its big customers. The Pacific Area routinely directed managers to

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<sup>14</sup> 66 Fed. Reg. 16504-09 (2001).

inform business and high-volume customers of holiday collection plans.<sup>15</sup> Headquarters holiday operations memos direct plants to accommodate drop-shipment mailers.<sup>16</sup> Most of the regular rate-case participants probably have little to complain about. But typical business and residential customers have plenty to complain about, and I am confident that I am representing their views.

The Postal Service's suggestion that the public does not care about holiday service levels is dubious for another reason. The June 26, 2002, memo attached to the Postal Service's initial brief states that collections on holidays and eves of holidays are a "highly visible area." This characterization is odd if the Postal Service also truly believes that nobody is looking. The reality is that this area is highly visible because customers care about the information.

Finally, the Commission should consider whether the Postal Service is turning a deaf ear to customers who may, in fact, be complaining about the lack of notice of service levels on holidays or eves of holidays. As my complaint confirms, Clarence E. Lewis, Jr., the Postal Service's former chief operating officer and executive vice president, simply ignored my correspondence concerning early collections on eves of holidays. Complaint at Exhibit 4, pages 1–2. Even my letter to Governor Ned R. McWherter did not produce a substantive response. *Id.* at pages 3–6. After I resorted to filing a complaint under section 3662, it would be hard to dispute that I received a rather cool reception to my concerns from the Postal Service. It is quite possible that disgruntled customers have communicated their concerns to the Postal Service, yet postal management has chosen to disregard their concerns, as upper management disregarded mine.

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<sup>15</sup> See fn. 7 and 8, *supra*.

<sup>16</sup> In USPS-LR-C2001-1/1, see memos dated October 7, 1998; November 20, 1998; December 11, 1998; January 6, 1999; February 5, 1999; May 11, 1999; August 10, 1999; September 10, 1999; October 21, 1999; November 15, 1999; November 17, 1999; December 27, 1999; January 24, 2000; May 8, 2000; June 23, 2000; August 9, 2000; September 29, 2000; October 20, 2000; November 1, 2000; November 17, 2000; December 14, 2000; February 5, 2001; and April 19, 2001.

**G. THE POSTAL SERVICE HAS NOT SHOWN THAT THE NEED FOR OPERATIONAL FLEXIBILITY OUTWEIGHS THE PUBLIC'S NEED FOR NOTICE OF HOLIDAY COLLECTION SERVICES.**

The Postal Service bases its argument against notifying the public of holiday collection services primarily on the assertion that no plausible alternative is better.

First, in a remarkably tentative statement designed to support the flexibility argument, the Postal Service asserts that managers “*appear* to benefit from the flexibility currently afforded them.” *Id.* at 17 (emphasis added). The Postal Service controls the information concerning its operations, yet it has provided little or no evidence in support of this argument. Moreover, the Postal Service can muster only the statement that managers “appear” to benefit from their flexibility. If this argument had any merit, surely the Postal Service would have produced a witness to inform the Commission of the need for operational flexibility on holidays. The Postal Service had ample opportunity to submit evidence to support this position. Before concluding that flexibility to postal managers is more important than providing adequate notice to the public, surely the Commission will require more evidence from the Postal Service than these flimsy statements.

The Postal Service then proceeds to construct supposedly doomsday scenarios about the consequences of my suggestion in my testimony, see DFC-T-1 at 23–24, that field officials should decide on a level of holiday collection service, post this information on collection boxes, and then provide the service. Postal Service Brief at 18. The Postal Service notes that “what may have made sense one year may not the next.” *Id.* Holiday conditions are not likely to vary so much from year to year as to create a substantial problem if the Postal Service adheres to posted holiday collection times, as I proposed in my so-called Mobile solution. After all, even some non-holiday weekdays generate more volume than others, yet the Postal Service still provides normal weekday service. However, if conditions changed dramatically, a solution would exist: update the labels on the collection boxes.

The Postal Service somehow finds two layers of irony in my presentation on the Mobile solution. Postal Service Brief at 18–19 and 19, fn. 11. As I testified, the collection boxes in Mobile indicated the specific holidays on which the posted holiday collection time would apply. DFC-T-1 at 22–25. I suggested this solution, or a variation thereof, for nationwide implementation. *Id.* Unfortunately, although the collection boxes in Mobile indicated that the boxes would be collected on Memorial Day in 2001, the Mobile P&DC did not, in fact, process outgoing mail on Memorial Day in 2001. *Id.* Therefore, my test mail was not postmarked until the following Tuesday. *Id.*

The Postal Service cites my experience as “nothing more than a clear manifestation of the difficulties likely to be encountered when attempting to ‘lock in’ facilities to the conduct of outgoing operations on holidays.” Postal Service Brief at 19. In reality, the Postal Service has failed to provide any evidence indicating that the Mobile P&DC could not have processed outgoing mail on Memorial Day in 2001. Unless the Mobile P&DC was unable to process outgoing mail on this holiday, this example does not show the difficulty of “locking in” a facility to conducting outgoing mail processing on a particular holiday.

The Postal Service finds irony in the fact that “the resulting scrutiny when Mr. Carlson caused the Mobile situation to be brought to the attention of higher officials” prompted the Postal Service to remove holiday collection times from all the collection boxes in the Alabama District. Postal Service Brief at 19, fn. 11. The Postal Service’s point is not clear. Does the Postal Service believe that customers would be better off, and that I would be happier, if these enhanced collection-time labels, albeit incorrect and misleading, had remained on the collection boxes? The true irony is in the Postal Service’s response to my observation in Mobile and my suggestion to apply this solution nationwide. Rather than correcting the specific discrepancy in Mobile and using the Mobile solution as a nationwide model, the Postal Service quashed the local officials’ idea, reduced the amount of information that is available to customers in the Alabama District, and declined to provide information to the public nationwide.



## **H. “FLEXIBILITY” IMPOSES A COST ON CUSTOMERS AND PREVENTS THE POSTAL SERVICE FROM OPERATING EFFICIENTLY.**

### **1. “Flexibility” imposes a cost on customers.**

In arguing that flexibility for the Postal Service is more important than notice to the public, the Postal Service states that “Flexibility cannot be sacrificed without a cost.” Postal Service Brief at 19. In a general sense, this statement may be plausible. However, flexibility also comes at a cost to the public. As I argued in my initial brief at 19–20, current holiday collection services are inefficient because they waste customers’ time and money. Some customers waste time preparing outgoing mail on holidays or driving it to the post office, only to discover later that no outgoing mail service was provided on that holiday. When holiday collection services *are* provided, the lack of notice prevents customers from using a service for which they, as ratepayers, are paying. The absence of accurate information about holiday collection services leads to inefficiencies for customers and imposes a cost on them.

### **2. The efficiency of postal operations would *increase* if the Postal Service informed customers of holiday collection services.**

The Postal Service’s discussion of the need for flexibility also reveals how the Postal Service would *benefit* if customers knew which level of holiday service to expect. At least sometimes, postal managers apparently schedule holiday processing operations because they expect customers to deposit such a high volume of mail on the holiday that processing plants will experience operational failures if they do not process outgoing mail on the holiday and instead try to process all the mail on the following day. For the Columbus Day holiday, Pacific Area memos dated October 5, 1995, and September 23, 1996, contain stern reminders about “plan failures” due to heavy holiday mail volume on Columbus Day in the past, and the memos implore field offices to provide normal collections and cancellations on Columbus Day to preclude “high on-hand volumes.” USPS-LR-C2001-1/3. In other words, a failure adequately to collect and cancel mail on a holiday can cause serious problems with high volume after

the holiday. If collection-times labels indicated that collection boxes would be collected on Columbus Day, surely more customers would deposit mail on Columbus Day than if the collection boxes indicated no holiday collection time. Thus, the best way to ensure that holiday collection and processing operations will process and dispatch all available mail on the holiday is to encourage the public to deposit available mail on the holiday. The Postal Service can encourage the public to deposit mail on holidays *by indicating holiday collection times on collection boxes*.

The preceding analysis shows that the need to announce holiday collection services to the public, and thus to lock the Postal Service in to a particular level of holiday service, may improve operational efficiency. Once the Postal Service decides to process mail on a particular holiday, the automated mail-processing environment probably experiences economies of scale. That is, if better collection information causes a 10-percent increase in volume, the operation probably can handle this increase efficiently. Meanwhile, the Postal Service processes this mail on the holiday, rather than on the day after the holiday along with the regular day's volume plus other post-holiday volume. By enticing customers to deposit available mail on holidays, the Postal Service may see a net *increase* in operating efficiency by processing as much mail as possible on the holiday, rather than the day after. Thus, the Postal Service currently is not meeting its section 3661(a) mandate to operate efficiently.

At minimum, the need for flexibility must be carefully balanced against the public's need for accurate information.

**3. The mandate of section 3661(a) to provide efficient postal services extends to the effects of postal operations on customers.**

An efficient Postal Service is one that operates efficiently internally *and* externally. To avoid external inefficiencies, the Postal Service must ensure that its operations do not cause customers to engage in inefficient behavior.

Unfortunately, the Postal Service's singular focus on flexibility for holiday operations threatens overall efficiency by creating negative externalities.

Presently, in the absence of accurate notice to the public, many customers who have mail to deposit on holidays do not deposit the mail because they are unaware that collections and processing of outgoing mail are available. These customers suffer because, as ratepayers, they pay for holiday processing operations. Yet the Postal Service effectively denies them the opportunity to use these holiday services that they need by failing to tell them that the holiday services are available. Meanwhile, other customers go to the special — and wasted — effort to deposit mail on holidays when the Postal Service is not, in fact, processing mail on those holidays. Current holiday operations lead to numerous external inefficiencies, thus preventing the Postal Service from satisfying the section 3661(a) mandate to provide efficient service.

### **III. EARLY COLLECTIONS ON EVES OF HOLIDAYS**

#### **A. RULE 82 DOES NOT BAR COMMISSION CONSIDERATION OF EARLY COLLECTIONS ON EVES OF HOLIDAYS.**

The Postal Service argues that my complaint concerning early collections on eves of holidays raises “issues that are patently localized, temporary, and do not occur on a substantially nationwide basis.” Postal Service Brief at 25. Therefore, according to the Postal Service, under Rule 82, the Commission should not consider this issue, as the early collections on eves of holidays do not constitute a “failure to provide postal services in accord with the policies of the Act.” Postal Service Brief at 25.

The first problem with the Postal Service's conclusion is that it misreads Rule 82. Rule 82 provides, in pertinent part:

The Commission shall entertain only those complaints which clearly raise an issue concerning whether or not rates or services contravene the policies of the Act; thus, complaints raising a question as to whether the Postal Service has properly applied its existing rates and fees or mail classification schedule to a particular mail user or with regard to an individual, localized, or temporary service issue not on a substantially

nationwide basis shall generally not be considered as properly raising a matter of policy to be considered by the Commission.

Rule 82 excludes consideration of localized and temporary service issues *that do not occur on a substantially nationwide basis*. However, Rule 82 does not exclude consideration of localized and temporary service issues that *do* occur on a substantially nationwide basis. Since 1996, the Postal Service has performed early collections (or no collections, in the case of Arizona and Utah) on eves of holidays from Washington state to Massachusetts, from Arizona to Florida, and in many large states in between. The wide scope of this practice surely qualifies it as “substantially nationwide.”

Even if Rule 82 excludes consideration of any temporary service issues, early collections on eves of holidays are not a temporary issue. Since various districts seem to perform early collections on eves of holidays every year in which the calendar provides an opportunity — that is, the eve of the holiday falls on a postal delivery day, as it did in December 1998, 1999, and 2001 — the problem is not temporary. It occurs annually and is a permanent problem around the December holidays.

Even if Rule 82 excludes consideration of any localized service issues, early collections on eves of holidays are not a localized issue. The Postal Service correctly observes that 15 districts collected mail from collection boxes in December 2001 prior to the time posted on the collection boxes. See Postal Service Brief at 24. In 1999, 22 districts performed early collections. DFC-T-1 at 28. Does a service problem that exists in 15 or 22 districts, located in several states and consisting of hundreds, if not thousands, of cities, constitute a localized problem? The term “localized” describes a service problem that exists in one or a few cities. Indeed, according to the dictionary, “localized” means “limited or confined to a particular place, area, or locality; concentrated in one area.”<sup>17</sup> A problem that exists in hundreds or thousands of cities in several

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<sup>17</sup> Webster's New World Dictionary of the American Language, Second College Edition (1970).

states from coast to coast is *not* a localized problem within the meaning of Rule 82.

Interestingly, the June 26, 2002, memo announcing a prohibition of early collections on eves of holidays apparently concurs with this definition. The memo states that “requests to advance or suspend collections in a localized area will be approved if collections are impractical due to special activities (e.g. Times Square in New York City on New Year’s Eve, special requests from public officials due to public events such as parades, festivals, etc.).” Based on the examples provided in the memo, Patrick R. Donahoe, the chief operating officer and executive vice president, seems to understand the common meaning of “localized.” In fact, if the definition of “localized” advanced in the Postal Service’s brief is correct, Mr. Donahoe’s memo would be internally inconsistent, as he would be prohibiting district-wide early collections — which, according to the brief, are “localized” — while still allowing “localized” adjustments.

Perhaps a better approach to evaluating the Commission’s jurisdiction over this issue is to examine the purpose of Rule 82. Once again, Rule 82 provides, in pertinent part:

The Commission shall entertain only those complaints which clearly raise an issue concerning whether or not rates or services contravene the policies of the Act; thus, complaints \* \* \* with regard to an individual, localized, or temporary service issue not on a substantially nationwide basis shall *generally* not be considered as properly raising a matter of policy to be considered by the Commission.

Rule 82 (emphasis added). Ignoring the word “generally,” the Postal Service argues that Rule 82 bars Commission review of early collections on eves of holidays.

The statute grants the Commission jurisdiction to hear complaints alleging that the Postal Service is not providing services consistent with the policies of the Act. Rule 82 represents the Commission’s attempt to describe distinguishing characteristics of complaints that do and do not implicate policies of the Act. Rule 82 exists to screen out complaints that do not rise to the level of alleging a violation of the Act. Thus, under Rule 82 the Commission may decline to hear

complaints that involve individual mailers or service problems in a city or two, as these complaints are not likely to implicate policies of the Act.

Under Rule 82, the Commission will not automatically dismiss a complaint that states only individual, localized, or temporary service issues that are not substantially nationwide. Rather, the test, as signalled by the word “generally,” is whether the complaint properly raises a matter of policy for the Commission to consider.

Fifteen districts constitute approximately 17.6 percent of the 85 districts.<sup>18</sup> According to the U.S. Census Bureau’s Web site,<sup>19</sup> the United States population is 287,524,900. Many of the districts that perform early collections on eves of holidays are in densely populated urban areas, including the entire New York metropolitan area. For simplicity, however, suppose that 17.6 percent of districts serve 17.6 percent of the U.S. population. The Commission is considering a service problem that affects nearly *51 million people*. If a service problem affecting nearly 51 million people does not raise the possibility of a violation of a policy of the Act, it is hard to imagine how many million people would need to be affected before a service problem could implicate a policy of the Act.

In sum, whether one evaluates the policy behind Rule 82 or simply applies Rule 82 word by word, early collections on eves of holidays unquestionably raise a policy of the Act. Therefore, the Commission has jurisdiction to hear this complaint.

**B. THE POSTAL SERVICE INCORRECTLY SUGGESTS THAT I DID NOT ACKNOWLEDGE THE STATED REASON FOR THE EARLY COLLECTIONS IN NEW YORK ON JULY 3, 2000.**

The Postal Service continues to believe that New York District officials acted reasonably when they made the sweeping decision to conduct collections on a Saturday schedule throughout Manhattan and Bronx on Monday, July 3,

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<sup>18</sup> The OCA’s brief incorrectly asserts that 224 districts exist. Initial Brief of the Office of the Consumer Advocate at 13, filed July 9, 2002.

<sup>19</sup> The URL for the U.S. Census Bureau Web site is [www.census.gov](http://www.census.gov).

2000. Postal Service Brief at 24, fn. 14. The Postal Service further alleges that the “five pages” of my testimony addressing “this topic” fail to “acknowledge the most distinguishing feature affecting postal operations that day in New York.” *Id.* In reality, at pages 65 and 66 of my testimony, I addressed the issue directly in response to the evidence that the Postal Service presented in its Response to DFC/USPS-35. The Postal Service’s somewhat new and more-dramatic characterizations of events in New York in its brief are not in evidence. And besides, disruptions below Canal Street would not have interfered with collection operations in midtown, upper Manhattan, and, most certainly, Bronx. The decision to perform early collections in this wide area, most of which was unaffected by activities in lower Manhattan, was not reasonable. Moreover, the Postal Service’s decision to hide the announcement of the early collections in the classified-advertisements section of the *Daily News* was shameful. DFC-T-1 at Part 2, Appendix 6. And the Postal Service’s press release announcing the early collections<sup>20</sup> managed to avoid stating the locations of the early collections (Manhattan and Bronx), thus rendering it all but useless. DFC-T-1 at 46–47. It is hard to imagine how the Postal Service can claim that New York District officials acted reasonably.

**C. THE POSTAL SERVICE’S MEMO PROHIBITING EARLY COLLECTIONS ON EVES OF HOLIDAYS DOES NOT COMPLETELY SOLVE THE PROBLEM OF INADEQUATE NOTICE TO THE PUBLIC.**

In an attachment to its initial brief, the Postal Service provided a memo announcing that early collections on eves of holidays “will not be permitted and EXFC testing will not be suspended.” I congratulate the Postal Service for recognizing the “potential service benefits of nationwide consistency and adherence to the posted collection schedules despite low collection volumes.” Postal Service Brief at 26. This decision, which is a direct result of this

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<sup>20</sup> My initial brief at 46 should have stated that the dateline, not the byline, was New York, NY.

proceeding,<sup>21</sup> should improve service to thousands, if not millions, of postal customers nationwide. Importantly, the new policy contains an important enforcement mechanism. As long as EXFC scores continue to affect postal managers' compensation and job security,<sup>22</sup> the policy not to suspend EXFC testing should discourage local officials from ignoring headquarters policy, as they have done in recent years. I do not believe that local postal managers will perform early collections and risk leaving EXFC test bundles sitting in collection boxes over the holiday, thus creating so-called "zero bundles."<sup>23</sup> It is unfortunate, of course, that managers previously were willing to let customers' mail sit in collection boxes over the holiday while they will not risk allowing an EXFC test bundle to sit in a collection box over the holiday. Nonetheless, even though the motivation may not be entirely pure, it leads to the correct result: better service for customers.

The memo does authorize requests to advance or suspend collections in a "localized area" if "collections are impractical due to special activities[.]" Examples include Times Square in New York City on New Year's Eve and special requests from public officials due to public events such as parades and festivals. One must hope that the Postal Service is applying the common meaning to "localized"; in its brief at 25, the Postal Service describes a service problem in 15 *districts* as a localized problem.

On the issue of notice to the public, while the memo does require better notice to the public than before, it does not suggest or require that notices be placed on individual collection boxes. If the memo truly means that collections may be suspended for special events in localized areas — as opposed to entire cities or districts — the burden of placing individual notices on the affected

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<sup>21</sup> The memo was signed by Patrick R. Donahoe, the chief operating officer and executive vice president. My complaint revealed that Mr. Donahoe's predecessor completely ignored my inquiries on this subject. Complaint at Exhibit 4, pages 1–2. The Postal Service's change in policy is a direct result of this proceeding. This proceeding already has demonstrated the purpose and high value of section 3662.

<sup>22</sup> The recent termination of the "EVA" compensation program raises some question of the extent to which EXFC scores will continue to affect managers' compensation. See *Washington Post*, July 22, 2002, page B2.

<sup>23</sup> See DFC-T-1 at 60–61 for a description of a "zero bundle."



collection boxes will be small because the number of boxes will be small. Meanwhile, the benefit to the public of notices on collection boxes would be huge. The benefit to the public easily would outweigh the burden of placing notices on, hopefully, a few dozen collection boxes at most. If the burden of placing notices on collection boxes discouraged local officials from suspending normal collection schedules, the public would benefit as well because suspended collection schedules always raise the possibility of harm to customers.

Therefore, to ensure adequate notice to customers, the Commission should recommend that Postal Service policy require notices on each affected collection box "whenever possible." These individual notices should supplement other notices in the media and postal retail locations.

#### **IV. CONCLUSION**

The Postal Service does not provide adequate postal services within the meaning of section 3661(a) when it fails to collect and process outgoing mail on non-widely observed holidays. Except, possibly, at Christmas and New Year's, The Postal Service also does not provide adequate service when it fails to collect and process outgoing mail on two consecutive days. Therefore, the Postal Service should collect and process outgoing First-Class Mail on non-widely observed holidays and on widely observed holidays that fall on Mondays.

The Postal Service's failure to inform the public of the holiday collection services that are available raises a violation of the section 3661(a) mandate to provide adequate and efficient postal services. The Postal Service must inform the public of the level of holiday collection service that is available through labels on collection boxes and updated notices in the DMM and POM.

Finally, to ensure adequate notice to the public of adjustments in collection schedules, whenever possible the Postal Service should post notices on the affected collection boxes.